IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 18122 of 2004

Between:

B.Anjaneyulu, S/o Rama Narasaiah,
R/o Bollikunta Village, Sanyam Mandal, Warangal District

... PETITIONER

AND

1 The Regional Manager, APSRTC Warangal Region, Warangal District
2 The Depot Manager, APSRTC Warangal -II Bus Depot, Warangal District
3 The Depot Manager, APSRTC., Narasampet Bus Depot, Warangal district

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondent not paying the salary to the petitioner by computing the notional increments from the date of termination to till the date of reinstatement (i.e., w.e.f.
16-6-1995 to 6-3-2000) as illegal, arbitrary and unjust and consequently direct the respondent to pay the salary to the petitioner by computing the notional increments from the date of termination to till the date of reinstatement (i.e.,w.e.f. 16-6-1995 to 6-3-2000) and pass such further order or orders as this Hon'ble Court may deem fit and proper under the circumstances of the case.

Counsel for the Petitioner: Mr.G.Ravi Mohan

Counsel for the Respondents: Smt.P.Rajani, Standing Counsel for APSRTC

The Court at the admission stage made the following :

Oral Order:

The petitioner was appointed as a conductor in the respondents Corporation in 1991. A disciplinary enquiry was ordered against him in the year 1995 and he was removed from service through the proceedings dated 16-6-1995. He approached the Industrial Tribunal-cum-Labour Court, Warangal by filing I.D.No.45 of 1996 and the tribunal through its order dated 16-6-1999 directed the respondents Corporation to reinstate the petitioner with continuity of service and without back wages, but denied one increment with cumulative effect. In pursuance of the order of the industrial tribunal, the petitioner was reinstated into service on 6-3-2000, but his pay was not fixed by adding the notional increments for the out of service period from 16-6-1995 to 6-3-2000. The petitioner therefore approached this Court seeking a direction to the respondents to add the notional increments for out of service period and fix the pay for the period from the date of reinstatement.

The award of the industrial tribunal indicates that on reinstatement the petitioner is entitled for continuity of service without back wages. A Division Bench of this Court in **Regional Manager, APSRTC, Nizamabad v. B. Chander Rao** held that the employee is entitled for notional increments, in pursuance of the orders of the labour court extending the benefit of continuity of service. The Division Bench while rendering the above decision distinguished a decision of the Supreme Court in **APSRTC & another v. S.Narasa Goud** wherein the Supreme Court held that the employee is not entitled for increments for the period of his unauthorized absence unless the same is regularized. The Division Bench relied on another judgment of the Supreme Court in **Devendra Pratap Narain Rai Sharma v. State of U.P.** and gave the above judgment.

In the light of the judgment of the Division Bench in **B.Chander Rao** (1 supra) and in the light of the order of the labour court extending the benefit of the continuity of service, the petitioner is entitled to get the notional increments fixed for the purpose of fixation of his pay for the period from the date of termination till the date of reinstatement.

In the result, the writ petition is allowed. The respondents are directed to

fix the pay of the petitioner by working out the notional increments of the petitioner for the period from the date of termination till the date of reinstatement within eight weeks from the date of receipt of this order.

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(Dr.G. Yethirajulu, J)

06th October 2004

svs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Regional Manager, APSRTC Warangal Region, Warangal District
2 The Depot Manager, APSRTC Warangal -II Bus Depot, Warangal District
3 The Depot Manager, APSRTC., Narasampet Bus Depot, Warangal district

4 One C.C. to Sri G. Ravi Mohan, Advocate (OPUC)

5 One C.C. to Smt.P. Rajani, S.C. for APSRTC (OPUC)

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